

PERSONNEL POLICY
Fauquier County, Virginia

Policy Title:
Drug Testing For Designated
Employees

Section No.:
44

Effective Date:
January 5, 1993
Supersedes Policy:
New

I. PURPOSE

This policy expands the current Fauquier County Drug-Free Workplacement Statement to include drug testing procedures for pre-employment screening and mandatory testing of all sworn law enforcement positions in the Sheriff's Office and Advanced Life Support Responder positions in the Office of Emergency Services upon suspicion of illegal drug use.

II. SCOPE

This policy shall apply only to sworn law enforcement positions in the Sheriff's Office and Advanced Life Support Responder positions in the Office of Emergency Services. Illegal drug use by these designated employees endangers their safety and the safety of the general public.

III. PROCEDURE

The County is committed to providing a safe workplace and to promoting high standards of health and safety to protect its employees as well as the public. Accordingly, the County has adopted a Drug-Free Workplace Statement covering all employees and has adopted this policy for designated applicants and employees.

A. Applicant Testing

1. All applicants for the designated positions who the County intends to hire shall be required to undergo a test for drugs following the procedures setforth in this policy.
2. An applicant covered by this policy whose test results indicate the presence of any illegal drugs or legal prescription drug for which the applicant cannot provide adequate proof of a prescription will not be hired. Any applicant refusing to take the drug test will not be hired.

B. Employee Testing

1. Reasonable Suspicion Testing - The County will require testing when there is reasonable suspicion that an employee has used illegal drugs or violated any other provision in this policy or the Drug-Free Workplace Statement pertaining to drug use. Generally, two supervisors should observe an employee engaging in conduct that creates a reasonable suspicion that the employee has used an illegal drug before requiring a drug test. However, if only one supervisor is available, then he/she alone may require that an employee submit to a drug test for reasonable suspicion. The supervisor(s) who orders a reasonable suspicion drug test shall document in writing the conduct giving rise to the reasonable suspicion of drug use within 24 hours of the observed behavior or before the results of the test are returned to the County, whichever is earlier.
2. Testing as a condition of participation in the County's Employee Assistance Program - An employee in a designated position who enters the Employee Assistance Program as a condition of continued employment may be required to submit to periodic drug testing to assure compliance with the program.

C. Testing Procedures

1. The County will pay all required expenses for initial testing and confirmation as required by this policy. No tests other than those required by this policy will be conducted at the County's expense. The initial drug screen will be an immunoassay test that satisfies the National Institute of Drug and Alcohol's requirements. All specimens indicating the presence of drugs on the initial test will be confirmed using gas chromatography/mass spectrometry (GC/MS).
2. The County shall designate a medical facility or clinical site for the purpose of collection of urine samples. The selected facility will use procedures for collecting urine samples that are designed to provide for individual privacy during the collection process. Under most circumstances an employee will not be subject to direct observation when providing a urine sample. However, if there is reason to believe that a particular individual may alter or substitute the specimen to be provided, special steps, set forth by the Medical Review Officer, will be taken to prevent this from happening.
3. The actual testing and analysis of the samples will be performed by laboratories which have been designated as certified testing facilities by the department of Health and Human Services. Both the collection facility and the laboratory facilities shall use chain of custody procedures adequate to ensure the identity of the sample. Refusal to take a drug test will have the same effect as a positive test for all purposes under this policy, including discipline.

D. Effect of a Positive Test

1. An applicant whose pre-employment drug test indicates the presence of an illegal drug or a prescription drug for which the applicant is unable to provide valid proof of a prescription will not be hired.
2. An employee who tests positive for an illegal drug or for a prescription drug without a prescription will be subject to discipline, up to and including termination.
3. An employee who tests positive for drugs under any circumstances described above who remains employed will be required to enter the County's Employee Assistance Program and comply with any and all directions of the Employee Assistance Program counselor. As part of such a program, an employee may be required to submit to periodic testing to assure compliance with the program. Before returning to duty, such an employee will be required to pass a drug test. Failure to enter the program or refusal to comply with the counselor's recommendations or directions will be grounds for immediate termination.
4. An employee who tests positive for drugs under any of the circumstances described above on a second occasion will be terminated immediately.
5. This policy is not intended to address all circumstances when an employee's involvement with drugs warrants disciplinary action. Accordingly, nothing in this policy shall be considered as limiting the County's right to take disciplinary action, up to and including termination, for an employee's involvement with illegal drugs not specifically addressed in this policy.

E. The Medical Review Officer

The County shall designate a Medical Review Officer (MRO) who will review and interpret all positive test results. When appropriate, the MRO will examine and consider alternate medical explanations for any positive test result. This action may include conducting a medical interview with the employee, reviewing the employee's medical history or reviewing any other relevant biomedical factors. Before making a final decision to certify a positive test result to the County, the MRO will give an employee who tests positive an opportunity to explain the test result.

F. Prescription Drugs

An employee will not be subject to discipline if he/she tests positive for drugs as long as they can prove, through clear and convincing evidence, that the positive test was the result of his/her use of a drug prescribed by a licensed medical practitioner, consistent with legal drug use and consistent with safe performance of his/her duties. An employee who tests positive for drugs bears the burden of proving that the use was prescribed, lawful and safe.

G. Access to Test Results

1. Pre-employment drug tests - An applicant may obtain his/her pre-employment drug screening results if he/she requests in writing the results within 60 days of being notified by the County of the disposition of the employment application.
2. Other drug tests - The MRO will notify any employee testing positive on a drug test. The MRO will inform the employee of what drug(s) was discovered.

H. The MRO will be the sole custodian of the individual test results. Except as set out herein, no person may obtain the individual test results retained by the MRO without first obtaining written authorization from the tested employee, unless required by law. The MRO will release, however, the following information to the Director of Personnel, who will retain it in a sealed portion of the employee's official personnel file:

1. whether or not the employee submitted to a drug test;
2. the date and location of such test;
3. the identity of the person or entity performing the test and the person who is the custodian of the detailed test results; and
4. the drugs tested for and whether the test finding was positive or negative. The results of a positive drug test with an accepted explanation to the MRO will be reported as negative.

No person, other than the MRO, may obtain this information from the County without the written authorization of the tested employee, unless required by law.

I. Employee Assistance Program (EAP)

Early identification and treatment of a substance abuse problem is the best method for protecting the interests of employees and the public. Accordingly, the County encourages any employee who needs help dealing with a drug problem to contact the

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County's Employee Assistance Program (see Personnel Policy, Section #40). Participation in the County's Employee Assistance program is confidential.

While the County encourages voluntary participation in such programs, participation will not prevent, or lessen the extent of disciplinary action for violation of the rules set forth in this policy.

Existing County sick leave or Sick Leave Bank procedures will be applied, with employees responsible for costs associated with treatment (otherwise not covered under the County's Employee Assistance program) and benefits continuation. Those certified as able to return to work must continue in an after-care program designated by the Employee Assistance Program counselor and are subject to all provisions of this drug testing policy.